

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

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MARYLAND SHALL ISSUE, INC., :
et al., :
: Case No:
Plaintiffs : 16-cv-3311-MJG
:
-vs- : Pages 1 - 229
:
LAWRENCE HOGAN, in his :
capacity of Governor of :
Maryland, et al., :
:
Defendants :
-----X

Deposition of Diane S. Armstrong
Baltimore, Maryland
Friday, March 23, 2018

Reported by: Kathleen M. Vaglica, RPR, RMR
Job No: 391104

MAGNA LEGAL SERVICES
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1 And who on your staff did you talk to?

2 A. Do you want all their names? 'Cause I
3 have five people on my staff.

4 Q. Yes. So I will need those names.

5 A. Mona Smith.

6 Q. And what is her title?

7 A. All of the individuals are office service
8 clerks.

9 Q. Got it. All right. So the other four
10 names?

11 A. Tienda Greene.

12 Q. Could you spell the first name?

13 A. T-I-E-N-D-A, G-R-E-E-N-E; Diane Duckett,
14 D-U-C-K-E-T-T. I'm trying to go in the line. Sam
15 Michaelson.

16 Q. All right.

17 A. And Dellene, D-E-L-L-E-N-E, Lizama,
18 L-I-Z-A-M-A.

19 Q. Can you estimate how many hours you spent
20 preparing for the deposition today?

21 A. Three or four. I did not keep track.

22 Q. And can you summarize the subject matters

1 Q. Can you elaborate on how it is that the
2 information that the trainer enters on the trainer's
3 screen gets to a screen that your unit sees in the
4 initial processing of a standard HQL application?

5 A. I don't know the details on the workings
6 of the computer, but I know that, when a student
7 enters in an instructor's ID number, it is then
8 supposed to transmit over to the instructor's
9 account for them to sign off on it. They do not get
10 any notification that a student has submitted their
11 application.

12 Q. Does it happen every, on some occasion
13 that in reviewing a standard HQL application there
14 is no entry under training?

15 A. Can you --

16 Q. It was a terrible question. Let me try it
17 again. So, when your unit reviews the standard HQL
18 applications, are there times when there is no entry
19 under training?

20 A. Yes.

21 Q. All right. And what do you do then?

22 A. We reach out to the applicant and advise

1 them that the instructor at that time had not signed
2 off on the training and for them to reach out to the
3 instructor or, if they have a certificate from the
4 class, to -- they e-mail that to us, and we can use
5 that.

6 Q. Okay. Just to be clear, your unit does
7 not reach out to the trainer and ask the trainer to
8 complete that. You reach out to the applicant and
9 ask the applicant to have the trainer complete it;
10 am I correct?

11 A. Correct, because we don't know who they've
12 used as an instructor. That does not come over.

13 Q. All right. Are there times when they put
14 in the trainer's identification on their
15 application, but there's no indication that the
16 training is complete?

17 A. Can you reword that?

18 Q. Sure. I understood that your unit will
19 receive an identification of the trainer from the
20 applicant in the standard HQL application, and it's
21 based on that identification that you know which
22 trainer they went to?

1 A. Can you repeat that? I'm sorry.

2 Q. Sure. So you're processing an
3 application. You come up against a 30-day deadline.

4 A. Mm-hmm.

5 Q. You recognize it's 30 days, but you don't
6 have all the information to approve it at that
7 point. Do you disapprove it on the 30-day deadline?

8 MR. SCOTT: Objection. It's beyond the
9 scope of her designation. You can answer, if you
10 know.

11 THE WITNESS: I don't know. I would just
12 say that it would depend on what we need to approve
13 or disapprove it.

14 BY MR. SWEENEY:

15 Q. Okay. Well, let's say if you still need a
16 training verification and you're on day 30, what
17 happens to that application? Is it disapproved or
18 is it simply held?

19 A. Well, we have to deny it until we get the
20 training confirmed.

21 Q. Now, if an application is denied and then
22 the training is confirmed, how is that treated?

1 What happens then?

2 A. Then we overturn the denial and approve
3 the application.

4 Q. And does that sometimes happen after the
5 30-day deadline?

6 A. Yes.

7 Q. And that's happened more than once after
8 the 30-day deadline?

9 A. Are we talking just about the instructors
10 or in general for the administrative log?

11 Q. I'm just focusing on that portion of the
12 administrative log dealing with training, training
13 verification.

14 A. From the instructor?

15 Q. Right.

16 A. To the best of my knowledge, there is no
17 one that has gone over 30 days for the training.

18 Q. Okay.

19 A. That have been denied.

20 Q. I didn't understand your response. Could
21 you elaborate?

22 A. There is no one on the administrative log

1 that is beyond 30 days that has been denied for the
2 training. All of the training has been cleared from
3 contacting the applicants.

4 Q. And what are the other reasons why an
5 application gets on the administrative log other
6 than lack of training verification?

7 MR. SCOTT: Objection. Beyond the scope
8 of her designation. You can answer.

9 THE WITNESS: Okay. Live Scan, proof of
10 residency, if they have an out-of-state driver's
11 license, and training documentation other than the
12 instructor 'cause there's a difference between the
13 training documentation and the instructor.

14 BY MR. SWEENEY:

15 Q. Explain to me the difference.

16 A. The training documentation would be either
17 a DD 214 or the DNR Hunter Safety Card.

18 Q. And those would be exemptions from
19 training; correct?

20 A. Correct.

21 Q. What happens if someone starts and submits
22 a standard application and they don't have training

1 verification, but they seek an exemption from
2 training? How is that application handled?

3 A. I don't understand the question.

4 Q. Sure. An individual submits a standard
5 application.

6 A. Mm-hmm.

7 Q. But it does not have training
8 verification. And then the initial -- does the
9 initial processing unit inquire of them about their
10 training verification? And suppose they learn that
11 they are exempt from training, and then they get a
12 verification, the DD form or the DNR. What happens
13 then to the processing of that standard application?

14 A. Then we internally switch -- we ask the
15 applicant to e-mail or fax over their documents, and
16 if it's acceptable, then we -- excuse me -- then we
17 switch internally the application from the incorrect
18 application to the correct application.

19 Q. The first application has a unique
20 identifier number in your system; is that correct?
21 The standard application that was first submitted in
22 that instance we're talking about.

1 MR. SCOTT: Objection.

2 THE WITNESS: I don't know.

3 BY MR. SWEENEY:

4 Q. Oh, you don't know whether or not each
5 application has a unique identifier in your system?

6 A. I don't know what you mean by unique
7 identifier.

8 Q. Oh, sure. How do you tell the
9 applications apart from your system?

10 A. It comes by the type that the applicant
11 submits.

12 Q. Okay. I'm sorry. I didn't mean to cut
13 you off.

14 A. If the applicant commits a standard, it
15 comes through showing HQL standard.

16 Q. And let's say this is an applicant by a
17 particular individual John Smith. Does that have a
18 particular identifying number?

19 MR. SCOTT: Objection.

20 BY MR. SWEENEY:

21 Q. For that individual application?

22 A. I don't know.

1 Q. All right. And when you, in the
2 processing unit, switch that initial standard
3 application to a training exempt application after
4 obtaining verification that the individual is
5 exempt, is that the same application that was
6 initially submitted or is that a new application
7 that has begun that is a training exempt
8 application?

9 A. It would be the same application.

10 Q. In addition to training verification, what
11 are the other deficiencies that would put an
12 application on the administrative log? I'm trying
13 to understand. You mentioned instructor, and how is
14 that different from training?

15 A. Well, the instructor is when they have to
16 take the four-hour training class.

17 Q. So that's for the standard applicant?

18 A. Correct.

19 Q. And then the training criteria otherwise
20 would be for the exempt applicant?

21 A. Correct.

22 Q. What are the issues about Live Scan that

1 would cause an application to be placed on the
2 administrative log?

3 MR. SCOTT: Objection. Beyond the scope.
4 You can answer, if you can.

5 THE WITNESS: Just the inability to verify
6 that they obtained the Live Scan or that it was
7 coded to the wrong authorization number.

8 BY MR. SWEENEY:

9 Q. And what is a, what is the authorization
10 number that a Live Scan fingerprint is coded to?

11 MR. SCOTT: Objection. You can answer.

12 THE WITNESS: When you go to get your
13 fingerprints done, my understanding is that you have
14 to tell them the reason that you're there to get
15 printed. Each reason has an authorization number
16 that gets coded to that department.

17 BY MR. SWEENEY:

18 Q. Does your initial HQL processing unit
19 verify that the Live Scan information is complete
20 and accurate?

21 MR. SCOTT: Objection. You can answer all
22 of his questions after I object, unless I tell you

1 not to.

2 THE WITNESS: Okay. Yes.

3 BY MR. SWEENEY:

4 Q. And if the Live Scan information is not
5 complete or to your review accurate, what do you
6 then do with that application?

7 MR. SCOTT: Objection.

8 THE WITNESS: They reach out to the
9 applicant.

10 BY MR. SWEENEY:

11 Q. And in the case of it being, the
12 fingerprints being coded to the wrong authorization
13 number, what is the applicant asked to do about
14 that?

15 A. Contact the vendor who took the
16 fingerprints and have them resubmit the prints with
17 the correct authorization code.

18 Q. And to your knowledge, has that occurred
19 more than once?

20 A. Yes.

21 Q. And can you estimate how many times that's
22 occurred?

1 your unit currently that you supervise?

2 A. Five.

3 Q. Those five, and those are the individuals
4 we talked about earlier. You gave me their names;
5 correct?

6 A. Correct.

7 Q. All right. So there are six of you all
8 together that compose the personnel of the HQL
9 initial processing staff; correct?

10 A. Let me just recount. Correct.

11 Q. Are the three troopers and the one
12 civilian assistant who do the secondary processing
13 officed near your group?

14 A. Yes.

15 Q. And in addition to the six that are in
16 your group and the four of them, are there any other
17 personnel that are assigned to the processing of HQL
18 applications?

19 A. No.

20 Q. Where are the personnel who process the
21 77R applications physically located in relationship
22 to you and your group?

1 and training exempt HQL applications?

2 MR. SCOTT: Objection.

3 THE WITNESS: Yes.

4 BY MR. SWEENEY:

5 Q. Does the Maryland State Police offer Live
6 Scan fingerprinting to the public?

7 A. No.

8 Q. How does an HQL standard or training
9 exempt applicant obtain Live Scan fingerprinting?

10 MR. SCOTT: Objection.

11 THE WITNESS: They have to contact a
12 vendor.

13 BY MR. SWEENEY:

14 Q. And are the vendors who provide Live Scan
15 fingerprinting satisfactory to the Maryland State
16 Police certified as such by the Maryland State
17 Police?

18 MR. SCOTT: Objection.

19 THE WITNESS: No, they are not regulated
20 by the State Police.

21 BY MR. SWEENEY:

22 Q. All right. How would an applicant know

1 where to go to get Live Scan fingerprinting?

2 MR. SCOTT: Objection.

3 THE WITNESS: They would check the, I
4 guess we have a list on our website or they can
5 search their browser for fingerprint vendors.

6 BY MR. SWEENEY:

7 Q. What is your understanding of where the
8 list on the Maryland State Police website of
9 fingerprinting vendors comes from?

10 MR. SCOTT: Objection.

11 THE WITNESS: The Department of Public
12 Safety.

13 BY MR. SWEENEY:

14 Q. Do you know if Live Scan fingerprinting
15 satisfactory to the Maryland State Police is offered
16 in every Maryland county and in the city of
17 Baltimore?

18 MR. SCOTT: Objection.

19 THE WITNESS: No, I do not know.

20 BY MR. SWEENEY:

21 Q. Does Maryland State Police set any
22 specific fee or range of fees for private

1 Q. And can you indicate where in the document
2 a change is made without telling me the substance of
3 the change?

4 MR. SCOTT: Objection.

5 MR. SWEENEY: Are you instructing her not
6 to answer?

7 MR. SCOTT: You can answer yes or no.

8 BY MR. SWEENEY:

9 Q. Can you indicate in the document where you
10 made that change without telling me what the nature
11 of the change was?

12 A. Yes.

13 Q. And where on the document did you make
14 that change?

15 MR. SCOTT: Objection. I'm going to
16 instruct her not to answer that.

17 MR. SWEENEY: All right.

18 BY MR. SWEENEY:

19 Q. And are you going to follow your counsel's
20 instruction?

21 A. Yes.

22 Q. All right. In paragraph three you state

1 that you received numerous phone calls daily from
2 citizens related to the HQL application process. Do
3 you see that?

4 A. Yes.

5 Q. Approximately how many phone calls a day
6 on average do you receive from citizens related to
7 the HQL application process?

8 A. Me, personally?

9 Q. Yes.

10 A. More than 20.

11 Q. And can you estimate how many calls are
12 received by the individuals that you supervise on
13 average on a daily basis from citizens related to
14 the HQL application process?

15 A. More than 20.

16 Q. So the total would be more than 40
17 received by your unit each day on average from
18 citizens related to the HQL application process;
19 correct?

20 A. Correct.

21 Q. Do you maintain any log of those telephone
22 calls?

1 A. No.

2 Q. Do you take any notes of those calls?

3 A. No.

4 Q. Do you ever confirm or follow up those
5 calls with e-mails or letters to the individual
6 callers?

7 A. No.

8 Q. And are the individuals who you supervise
9 follow the same pattern of not maintaining logs or
10 notes or following up with e-mails or letters to the
11 individuals they speak to with respect to the HQL
12 process?

13 A. Yes.

14 Q. Paragraph four of Exhibit Number 47 says,
15 "Currently, MSP does not track the number of HQ
16 applications on the MSP server that have been
17 initiated through the MSP website."

18 Did MSP ever track the number of HQL
19 applications on the MSP server that had been
20 initiated through the MSP website?

21 MR. SCOTT: Objection to form.

22 THE WITNESS: No.

1 e-mails stay on there, that they do not, even if we
2 delete them, they do not delete. They may delete
3 from us, but they stay on the server.

4 Q. When you say you were told by your
5 section --

6 A. We were told by our information system
7 technology section that the e-mails stay on there.

8 Q. And in connection with the collection of
9 e-mails that were provided to us in discovery, were
10 you making that inquiry or is this general knowledge
11 you have?

12 A. That's general knowledge that I have.

13 Q. And do you have any information about who
14 was involved in collecting the e-mails regarding
15 citizen reports of difficulties with the HQL that
16 were provided to us?

17 A. No.

18 Q. We talked before about your estimate of
19 the number of calls that you and your people
20 received daily with respect to questions about the
21 HQL. Can you estimate the number of e-mail
22 inquiries that you receive daily, you or your people

1 receive daily with respect to the HQL?

2 A. Me, personally, I do over 30 e-mails a
3 day, and I do not know the number of e-mails handled
4 by everyone in my section, no.

5 Q. Can you make an estimate, as you did with
6 the phone calls, that it's probably at least as many
7 as you receive?

8 A. Combined?

9 Q. Yes.

10 A. Combined it's probably -- it could be 20
11 or more, but it's not going to be as many as mine
12 because I have the department e-mails.

13 Q. When you receive an e-mail from a citizen
14 making an inquiry about the HQL, do you e-mail them
15 or call them in response?

16 A. Usually e-mail them.

17 Q. All right. And is there an e-mail address
18 that you use to respond?

19 A. Yes.

20 Q. And what address is this?

21 A. The msp.hql@maryland.gov.

22 Q. And do you always sign your e-mails as

1 THE WITNESS: No.

2 BY MR. HANSEL:

3 Q. The training information is received,
4 obviously, from a third party; right, from the
5 trainer?

6 A. The class, yes, that is received by a
7 third party.

8 Q. Okay. And, likewise, the Live Scan
9 information as it comes to you is received from a
10 third-party vendor; is that correct?

11 A. Correct.

12 Q. Okay. All right. So, other than going to
13 those third parties, the trainer for the class and
14 the Live Scan folks, that is not something that an
15 individual has immediate personal control over.
16 They have to rely on those third parties to submit
17 the information; is that right?

18 MR. SCOTT: Objection.

19 THE WITNESS: Correct.

20 BY MR. HANSEL:

21 Q. Okay. And not only do they have to rely
22 on the third parties to submit the information, but

1 in the proper form with the proper codes; is that
2 right?

3 MR. SCOTT: Objection.

4 THE WITNESS: Correct.

5 BY MR. HANSEL:

6 Q. Okay. All right. And applications, you
7 agree with me certainly, and I think we've seen some
8 examples -- we can dig them back up, if you want,
9 but you agree with me certainly that applications
10 can take longer than 30 days to be approved for
11 reasons that are unrelated to the individuals that
12 are not the fault of the applicant? Let's put it
13 that way.

14 MR. SCOTT: Objection.

15 BY MR. HANSEL:

16 Q. Examples being problems with Live Scan,
17 miscoding by the sheriff's department, issues with
18 their trainer not getting the data in.

19 A. Then, yes.

20 Q. Okay. All right. And just to be clear,
21 because we muddled the question significantly, you
22 agree with me that applications can take longer, for

1 an HQL can take longer than 30 days to process for
2 reasons that are beyond the control of the
3 applicant; correct?

4 MR. SCOTT: Objection.

5 THE WITNESS: And also beyond the control
6 of the State Police.

7 BY MR. HANSEL:

8 Q. And the applicant?

9 MR. SCOTT: Objection.

10 THE WITNESS: The applicant and the State
11 Police, yes.

12 BY MR. HANSEL:

13 Q. Okay. All right. In cases where the
14 incomplete nature of the application is not the
15 fault of the applicant, is the HQL, nevertheless,
16 denied?

17 MR. SCOTT: Objection.

18 THE WITNESS: What do you mean by
19 "nevertheless, denied"?

20 BY MR. HANSEL:

21 Q. Is it not approved.

22 A. It is not approved until we get the

1 documentation that is required by law.

2 Q. And for -- and that is the, at the 30-day
3 mark, the application then is placed on this
4 administrative log; is that correct?

5 A. Correct.

6 Q. Okay. And then it's removed from the
7 administrative log and dealt with appropriately, but
8 in the appropriate case approved when the problem
9 with Live Scan or the problem with training is
10 corrected; is that right?

11 MR. SCOTT: Objection.

12 THE WITNESS: Correct.

13 BY MR. HANSEL:

14 Q. Okay. So the overall time period in those
15 circumstances from the person hitting the submit
16 button and paying the fee to actually having
17 approval of their HQL is in those circumstances
18 longer than 30 days?

19 MR. SCOTT: Objection.

20 THE WITNESS: Correct.

21 BY MR. HANSEL:

22 Q. Okay. Now, the administrative log, I

1 but I'm asking you was the Internet Explorer problem
2 fixed before or after 2017, if you know?

3 MR. SCOTT: Objection.

4 BY MR. HANSEL:

5 Q. And remember, we looked at an e-mail from
6 December 28 of 2016 when it still existed.

7 A. And that is why I said I do not know the
8 date. I'm not going to tell you a date that I don't
9 know.

10 Q. I'm not asking the date.

11 A. I don't even want to guess at a date that
12 I don't know.

13 Q. So you don't even know the year, other
14 than what the e-mails show?

15 A. Correct.

16 Q. Okay. All right. Is there any path for
17 someone without a fixed address to obtain an HQL in
18 Maryland?

19 MR. SCOTT: Objection.

20 THE WITNESS: They need, what we require
21 in the HQL is an address on the application for us
22 to mail them the card. That's what we require.